

WSR 22-14-001

PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY

[Order 22-04—Filed June 22, 2022, 12:16 p.m.]

Subject of Possible Rule Making: The Washington state department of ecology is considering revising chapter 173-201A WAC, Water quality standards for surface waters of the state of Washington. We are considering the following revisions in this rule making:

- Amending WAC 173-201A-240 Toxic substances, specifically aquatic life criteria, including, but not limited to, Table 240 and footnotes.
- Minor, nonsubstantive edits to rule language in WAC 173-201A-240 to correct typographical, calculation, and formatting errors.

We may amend other sections of chapter 173-201A WAC as necessary to support any revisions to the sections noted above.

We are considering revisions to aquatic life toxics criteria to provide additional water quality protection for organisms that live in water. We will:

- Review all of Washington's current aquatic life toxics criteria to ensure they are consistent with nationally recommended water quality criteria issued by the Environmental Protection Agency (EPA).
- Evaluate pollutant protection levels for endangered species in Washington waters.
- Evaluate new scientific data, methods, and modeling tools to update protection levels necessary for aquatic life in Washington's surface waters.
- Consider adding new toxic substances to the water quality standards that EPA has recommended or that the state of Washington designates as high priority for the protection of aquatic life.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 90.48.035 Water pollution control, rule-making authority; and 40 C.F.R. 131.20 Water quality standards, State review and revision of water quality standards, requires states and tribes (with primacy for clean water actions) to periodically review and update the water quality standards.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: **A. History of Aquatic Life Toxics Criteria:** Under Clean Water Act (CWA) regulations, any revisions to states' surface water quality standards must be approved by EPA and may be subject to review of potential impacts to endangered species. The last major update to Washington's aquatic life toxics criteria was in 1992 in response to impending federal promulgation, called the National Toxics Rule, for states that had insufficient protections for certain toxic substances. Ecology opted to adopt the majority of aquatic life toxics criteria that were recommended by EPA prior to this promulgation, and EPA approved updates to some of Washington's aquatic life toxics criteria in 1993. The majority of Washington's aquatic life toxics criteria have not been updated since 1992 or prior. Since the National Toxics Rule of 1992, EPA has added additional toxic substances to their list of recommended criteria and provided several updates to previously established criteria. In this rule making, we are prepared to evaluate the current science for each of Washington's aquatic life toxic

criteria and any new aquatic life criteria for toxic substances in this rule making.

B. Litigation: On December 29, 2021, the United States District Court ruled that EPA would be required to determine within 180 days if Washington's current aquatic life toxics criteria are consistent with CWA or if they need to be revised (*NWEA vs. EPA*, 2021, Case No. C20-1362 MJP). If they are determined to be inadequate, CWA requires EPA to promulgate new regulations for Washington, unless the state adopts them in the meantime.

Although litigation between EPA and Northwest Environmental Advocates (NWEA) continues, we are proceeding with the original plan to update the aquatic life toxics criteria after completing the human health toxics criteria updates and the recently completed salmon spawning habitat protection rule. Our preference is to do a state-specific evaluation of EPA's aquatic life toxics criteria recommendations and avoid federal promulgation of these criteria for Washington.

C. Triennial Review: During the last public review of ecology's draft workplan in 2021, we received overwhelming support from commenters for updating rules for aquatic life toxics criteria based on new information and approaches to aquatic life protection. We considered and received feedback on several approaches to rule making during our 2021 triennial review process. The different approaches to revising the aquatic life toxics criteria include:

- Updating different classes (such as metals and organics) of toxic substances in staggered rule makings.
- Rule makings for different groups of toxic substances based on highest priority.
- A review and update of all necessary criteria in a single rule making.

We received public support for updates to aquatic life toxics in a single rule making and a strategy that involves two rule makings based on different chemical classes.

D. Approach to this Rule Making: We have decided to proceed with updating all necessary aquatic life toxics criteria in a single rule making. This decision is influenced in part by ongoing litigation for EPA to evaluate and potentially promulgate aquatic life toxics criteria. We anticipate that a single rule making of all aquatic life toxics criteria will be more efficient than multiple rule makings. Stakeholders, tribes, and other interested parties will be able to engage in the full scope of aquatic life toxic criteria considerations within one rule making, without ecology placing one toxic substance or group of substances at a higher priority than others.

In this rule making, we will compare EPA's nationally recommended aquatic life toxics criteria against Washington's current criteria to determine if updates are needed. We will also consider any draft EPA criteria that may not be finalized before the rule proposal phase of this rule making. Furthermore, we will evaluate previous Endangered Species Act (ESA) consultations and associated National Oceanic and Atmospheric Administration and United States Fish and Wildlife Service biological opinions from other Pacific Northwest states (such as Idaho and Oregon) to anticipate whether EPA national recommendations will meet ESA protection requirements.

Previous ESA consultation reports for criteria in other states have indicated that EPA's recommendations for some aquatic life toxics may not adequately protect ESA listed species. If particular toxics are not deemed "approvable" through ESA consultation, we will evaluate

new scientific data, alternative methods to calculate criteria, and the new modeling tools as remedies to providing full protection to aquatic life species, including endangered species.

E. Rule-Making Scope: We have identified several aquatic life toxics criteria that should be reviewed based on EPA's updates to nationally recommended criteria. For several toxic substances, EPA recommended 304(a) criteria are more stringent than ecology's aquatic life toxics criteria. We will need to evaluate EPA recommendations and make a decision on whether to adopt them or conduct a state-specific modification of the criteria.

Table 1 shown below lists Washington's aquatic life toxic criteria and those criteria that should be evaluated based on more recent EPA updates. Table 2 below lists potential criteria that are not included in Washington's water quality standards for aquatic life toxics but are recommended by EPA. Ecology may choose to update criteria regardless of EPA recommendations based on new data and/or the need to adopt more protective values for endangered species.

Table 1. Washington's current list and adoption year of aquatic life toxics criteria compared with EPA's last updates.

Washington's Aquatic Life Toxics Criteria		
Toxic Substance	Year Adopted	Year EPA Last Updated
4,4'-DDT (and metabolites)	1988*	1980
Aldrin	1988*	1980
Ammonia	2003	2013
Arsenic	1992	1995
Cadmium	1992	2016
Chlordane	1988*	1980
Chloride (dissolved)	1992	1988
Chlorine (total)	1988	1986
Chlorpyrifos	1988*	1986
Chromium III	1992	1995
Chromium VI	1992	1995
Copper	1992	2007
Cyanide	1988*	1985
Dieldrin	1988*	1995
Endosulfan	1988*	1980
Endrin	1988*	1995
Heptachlor	1988*	1980
Hexachlorocyclohexane (gamma-BHC; Lindane)	1988*	1995
Lead	1992	1984
Mercury	1992	1995
Nickel	1992	1995
Parathion	1988*	1995
Pentachlorophenol (PCP)	1992	1995
Polychlorinated Biphenyls (PCBs)	1988*	1986

Washington's Aquatic Life Toxics Criteria		
Toxic Substance	Year Adopted	Year EPA Last Updated
Selenium	1992	2016
Silver	1992	1980
Toxaphene	1988*	1986
Zinc	1992	1995

*Record of identical criteria in 1988 standards but not in 1981. Criteria may have been incorporated between 1982 and 1988.

Table 2. Toxic substances listed in EPA national recommended criteria that are not currently adopted by Washington.

Toxic Substance	Year Last Updated
Acrolein	2009
Aluminum	2018
Boron	1986
Carbaryl	2012
Demeton	1985
Diazinon	2005
Guthion	1986
Heptachlor Epoxide	1981
Iron	1986
Malathion	1986
Methoxychlor	1986
Mirex	1986
Nonylphenol	2005
Perfluorooctanoic Acid (PFOA)	2022 (draft)
Perfluorooctane Sulfonate (PFOS)	2022 (draft)
Sulfide-hydrogen sulfide	1986
Tributyltin	2004

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: We will work with tribes to discuss, and seek input on, rule-making activities. Other coordinating federal and state agencies include EPA, National Oceanic and Atmospheric Administration, United States Fish and Wildlife Service, and Washington department of fish and wildlife.

Process for Developing New Rule: Ecology will follow the standard process for the adoption of rules under the Administrative Procedure Act (chapter 34.05 RCW).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Marla Koberstein, Department of Ecology, Water Quality Program, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-628-6376, for Washington relay service or TTY call 711 or 877-833-6341, email marla.koberstein@ecy.wa.gov, website Ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-201A-Aquatic-Life-Toxics-Criteria. Sign up to receive email notices https://public.govdelivery.com/accounts/WAECY/Subscriber/new?topic_id=WAEYC_61.

Additional comments: Interested parties can stay informed about the rule making and public involvement opportunities as described above. Ecology will extend an offer for government-to-government consultation with tribal governments during each phase of rule development.

June 22, 2022
Vincent G. McGowan, PE
Water Quality Program Manager

WSR 22-14-006
PREPROPOSAL STATEMENT OF INQUIRY
PUBLIC DISCLOSURE COMMISSION
[Filed June 22, 2022, 3:01 p.m.]

Subject of Possible Rule Making: The public disclosure commission (PDC) will consider making inflationary adjustments to the contribution limits and reporting values in the Fair Campaign Practices Act.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.17A.125.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Under RCW 42.17A.125, PDC must consider revising monetary limits and reporting values every two to five years. Adjustments are made by rule in recognition of the economic changes as reflected in the inflationary index recommended by the office of financial management (OFM) and rounded off to be most accessible for the public. The economic conditions reflected in the current inflationary index may warrant adjustments in monetary limits and thresholds throughout the FCPA.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: PDC must use an inflationary index recommended by OFM to calculate the inflationary adjustments. PDC will coordinate with OFM to determine the inflationary index to calculate the adjustments for each monetary value.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sean Flynn, 711 Capitol Way South, Suite 206, Olympia, WA 98504, phone 360-753-1111, fax 360-753-1112, email pdc@pdc.wa.gov, website www.pdc.wa.gov.

June 22, 2022
Sean Flynn
General Counsel

WSR 22-14-018

PREPROPOSAL STATEMENT OF INQUIRY

HEALTH CARE AUTHORITY

[Filed June 24, 2022, 9:13 a.m.]

Subject of Possible Rule Making: WAC 182-526-0030 Contacting the board of appeals, 182-526-0580 Deadline for requesting review of an initial order by a review judge; other related rules as appropriate.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.05.021, 41.05.160.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The agency is amending WAC 182-526-0030 to update the board of appeals' website address. The agency is amending WAC 182-526-0580 to specify the acceptable filing methods for a written review request of an initial order. During this review, the health care authority may identify additional related changes that are required to improve clarity or update policy.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Not applicable.

Process for Developing New Rule: The agency welcomes the public to take part in developing this rule. If interested, contact the person identified below to receive an early rule draft to review. After the early review, the agency will send a notice of proposed rule making (CR-102) to everyone receiving this notice and anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Brian Jensen, Rulemaking Questions, P.O. Box 42716, Olympia, WA 98504-2716, phone 360-725-0815, fax 360-586-9727, telecommunication[s] relay service (TRS) 711, email brian.jensen@hca.wa.gov, website www.hca.wa.gov/about-hca/rulemaking; or Kerry Breen, Program Questions, P.O. Box 42700, Olympia, WA 98504-2700, phone 1-844-728-5212, fax 360-507-9018, TRS 711, email hcaboardofappeals@hca.wa.gov, website www.hca.wa.gov/about-hca/rulemaking.

June 24, 2022

Wendy Barcus
Rules Coordinator

WSR 22-14-025
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed June 24, 2022, 12:12 p.m.]

Subject of Possible Rule Making: Department of social and health services (DHS) is planning to amend WAC 388-424-0001 Citizenship and immigration status—Definitions, 388-424-0020 How does my alien status impact my eligibility for federally funded basic food benefits?, 388-466-0005 Immigration status requirements for refugee cash assistance, and other related rules as may be required.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 74.08A.120.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Planned amendments will incorporate changes in eligibility for federally-funded benefits based on federal legislation.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Planned amendments are in response to federal legislation and based on policy guidance received from the federal Office of Refugee Resettlement.

Process for Developing New Rule: DHS welcomes the public to take part in developing these rules. Anyone interested should contact the staff person identified below. At a later date, DHS will file a proposal with the office of the code reviser with a notice of proposed rule making. A copy of the proposal will be sent to everyone on the mailing list and to anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Olga Walker, P.O. Box 45470, Olympia, WA 98504-5470, phone 360-725-4641, fax 360-725-4905, email Olga.Walker@dshs.wa.gov; or Max Gibbs-Ruby, P.O. Box 45470, Olympia, WA 98504-5470, email Max.Gibbs-Ruby@dshs.wa.gov.

June 22, 2022
Katherine I. Vasquez
Rules Coordinator

WSR 22-14-027
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed June 24, 2022, 2:22 p.m.]

Subject of Possible Rule Making: Department of social and health services (DHS) is planning to amend WAC 388-454-0006. The department makes background checks on adults who are acting in place of a parent without court-ordered custody, and other related rules as may be required.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.43.832, 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 74.12.290.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: DHS is required to determine eligibility for "in loco parentis" caregivers to receive a cash grant for a child while acting in place of a parent. Planned amendments will support caregivers in receiving cash and support the well-being and safety of children in the care of "in loco parentis" caregivers.

Process for Developing New Rule: DHS welcomes the public to take part in developing the rules. Anyone interested should contact the staff person identified below. At a later date, DHS will file a proposal with the office of the code reviser with a notice of proposed rule making. A copy of the proposal will be sent to everyone on the mailing list and to anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sarah Mintzer, P.O. Box 45470, Olympia, WA 98504-5470, phone 360-764-0050, fax 360-725-4905, email sarah.mintzer@dshs.wa.gov.

June 24, 2022
Katherine I. Vasquez
Rules Coordinator

WSR 22-14-033
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Office of the Secretary)
[Filed June 27, 2022, 10:12 a.m.]

Subject of Possible Rule Making: Chapter 388-01 WAC, DSHS organization/disclosure of public records and other related rules as appropriate.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.56.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Chapter 388-01 WAC displays the department's procedure for receiving, processing, and producing public records. The WAC sections require updates to comply with new statutes and procedures.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Not applicable.

Process for Developing New Rule: Department of social and health services (DSHS) welcomes the public to take part in developing the rules. Anyone interested should contact the staff person identified below. At a later date, DSHS will file a proposal with the office of the code reviser with a notice of proposed rule making. A copy of the proposal will be sent to everyone on the mailing list and to anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Natasha House, Public Records Officer, P.O. Box 45135, Olympia, WA 98504, phone 360-902-7878, fax 360-902-7855, email DSHSPublicDisclosure@dshs.wa.gov, website <https://www.dshs.wa.gov/office-of-the-secretary/how-request-public-records>.

June 27, 2022
Katherine I. Vasquez
Rules Coordinator

WSR 22-14-034

PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)
[Filed June 27, 2022, 10:15 a.m.]

Subject of Possible Rule Making: During the 2017 legislative session, HB 1548 was codified as RCW 74.39A.080, resulting in the department considering adding chapter 388-112B WAC relating to curricula for persons in long-term care facilities with behavioral health needs. The department may amend other related rules as required.

Statutes Authorizing the Agency to Adopt Rules on this Subject:
RCW 74.08.090 and 74.39A.078.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The legislature directed department of social and health services (DSHS) to adopt rules to establish minimum competencies and standards for the approval of curricula for facility-based caregivers serving persons with behavioral health needs and geriatric behavioral health workers. The curricula must include at least 30 hours of training specific to the diagnosis, care, and crisis management of residents with a mental health disorder, traumatic brain injury, or dementia. The curricula must be outcome-based, and the effectiveness measured by demonstrated competency in the core specialty areas through the use of a competency test.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Not applicable.

Process for Developing New Rule: DSHS welcomes the public to take part in developing the rules. Anyone interested should contact the staff person identified below. At a later date, DSHS will file a proposal with the office of the code reviser with a notice of proposed rule making. A copy of the proposal will be sent to everyone on the mailing list and to anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Angel Sullivan, P.O. Box 45600, Olympia, WA 98504-5600, phone 360-464-0550, fax 360-483-8633, TTY 1-800-833-6388, email angel.sullivan@dshs.wa.gov.

June 27, 2022
Katherine I. Vasquez
Rules Coordinator

WSR 22-14-035

PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)
[Filed June 27, 2022, 10:59 a.m.]

Subject of Possible Rule Making: WAC 388-828-9235, 388-828-9340, 388-828-9360, 388-845-1035, and 388-845-2105 and other related rules as may be required.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 71A.12.030 and 71A.12.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The developmental disabilities administration (DDA) is planning to amend these rules to align with changes to CARE, remove content about prevocational services, correct inaccurate cross-references, and clarify language about qualified providers. During this review, the department may make additional changes that are necessary to improve clarity or update policy.

Process for Developing New Rule: The department of social and health services (DHS) welcomes the public to take part in developing the rules. Anyone interested should contact the staff person identified below. At a later date, DHS will file a proposal with the office of the code reviser with a notice of proposed rule making. A copy of the proposal will be sent to everyone on the mailing list and to anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Chantelle Diaz, DDA, P.O. Box 45310, Olympia, WA 98504-5310, fax 360-407-0955, TTY 1-800-833-6388, email chantelle.diaz@dshs.wa.gov.

June 27, 2022
Katherine I. Vasquez
Rules Coordinator

WSR 22-14-042
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
HEALTH CARE AUTHORITY
[Filed June 27, 2022, 2:28 p.m.]

The health care authority requests withdrawal of the Preproposal statement of inquiry filed as WSR 22-13-157 on June 21, 2022, and distributed in the 22-13 State Register.

Wendy Barcus
Rules Coordinator

WSR 22-14-044

PREPROPOSAL STATEMENT OF INQUIRY

WESTERN WASHINGTON UNIVERSITY

[Filed June 28, 2022, 4:21 p.m.]

Subject of Possible Rule Making: New WAC chapter to develop an additional student emergency loan that allows a student to amortize prior term debt over a longer period. This loan utilizes funds already in place within the emergency loan program.

Statutes Authorizing the Agency to Adopt Rules on this Subject:
RCW 28B.15.820, 28B.35.120(12).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules are needed to establish parameters regarding loan terms such as loan qualification requirements, repayment periods, late fees and interest rates, and default criteria.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jennifer L. Sloan, 516 High Street, Mailstop 9044, Bellingham, WA 98225, phone 360-650-3117, TTY 711, email sloanj2@wwu.edu, website <https://president.wwu.edu/policy-rules>.

June 27, 2022
Jennifer L. Sloan
Rules Coordinator

WSR 22-14-048

PREPROPOSAL STATEMENT OF INQUIRY
WASHINGTON STATE LOTTERY
[Filed June 28, 2022, 8:21 a.m.]

Subject of Possible Rule Making: Washington's lottery is considering revisions to WAC 315-04-180 Obligations of lottery retailers, which requires licensed lottery retailers to reimburse the lottery for lost or stolen tickets.

Statutes Authorizing the Agency to Adopt Rules on this Subject:
RCW 67.70.040(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The current rule does not provide the director of the lottery discretion to waive reimbursement for lost or stolen tickets in any situation. This places a burden on retailers in light of the recent and significant increase in theft of lottery tickets. Potential amendments may grant discretion to the director in clearly defined situations.

Process for Developing New Rule: The lottery will use a collaborative rule-making process to develop the proposed rules. The lottery will post draft rules on its website and notify interested parties of the opportunity to provide informal comments. Staff will evaluate informal comments prior to proposing the rule for adoption. Formal comments will be taken in writing during the formal comment period and in person at the public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kristi Weeks, P.O. Box 4300 [43000], Olympia, WA 98504-3000, phone 360-810-2881, fax 360-515-0416, email KWeeks@walottery.com, website www.walottery.com.

June 28, 2022
Kristi Weeks
Director of Legal Services

WSR 22-14-060
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed June 29, 2022, 11:30 a.m.]

Subject of Possible Rule Making: The department is planning to amend WAC 388-484-0006 TANF/SFA time limit extensions. During this rule making, other related rules may be identified and amended as be required.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.770, 74.08.090, 74.08A.010, and 74.08A.015.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Planned amendments will implement changes to temporary assistance for needy families time limit extension hardship policies passed in the 2022 legislative session.

Process for Developing New Rule: The department of social and health services (DHS) welcomes the public to take part in developing the rules. Anyone interested should contact the staff person identified below. At a later date, DHS will file a proposal with the office of the code reviser with a notice of proposed rule making. A copy of the proposal will be sent to everyone on the mailing list and to anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sarah Mintzer, P.O. Box 45470, Olympia, WA 98504-5470, phone 360-764-0050, fax 360-725-4905, email sarah.mintzer@dshs.wa.gov.

June 23, 2022
Katherine I. Vasquez
Rules Coordinator

WSR 22-14-072
PREPROPOSAL STATEMENT OF INQUIRY
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2022-07—Filed June 30, 2022, 10:37 a.m.]

Subject of Possible Rule Making: To amend or repeal existing rules under subchapter E of chapter 284-180 WAC that affect the revised reporting requirements by the hearings unit for appeals received from small pharmacies regarding reimbursement settlements with pharmacy benefit managers which will be referred to the state office of administrative hearings (OAH).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 48.02.060, 48.200.280(6), 34.05.485 (1)(c), 48.02.100.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The tier II appeals process of small pharmacy reimbursement settlements with pharmacy benefit manager process has changed such that initial intake of appeals to the office of the insurance commissioner (OIC) are no longer handled by OIC's hearings unit. The actual review of tier II appeals are conducted by an administrative law judge at OAH. The small pharmacy reimbursement appeals unit within OIC closed March 2021. These updates are necessary to conform to current procedures for process/review, to update with emphasis on electronic process (versus mailing) and remove the requirement for sensitive information to be filed with an appeal.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: OIC rule team will seek input and review of draft rule by OAH.

Process for Developing New Rule: Submit comments by August 15, 2022.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Barb Jones, 302 Sid Snyder Avenue S.W., Olympia, WA 98504, phone 360-725-7041, fax 360-586-3109, TTY 360-586-0241, email rulescoordinator@oic.wa.gov, website www.insurance.wa.gov.

June 30, 2022
Mike Kreidler
Insurance Commissioner

WSR 22-14-081
PREPROPOSAL STATEMENT OF INQUIRY
UTILITIES AND TRANSPORTATION
COMMISSION

[Filed July 1, 2022, 8:14 a.m.]

Subject of Possible Rule Making: The Washington state utilities and transportation commission (UTC) is initiating this rule making to implement amendments to RCW 80.24.010 updating UTC's authority to assess regulatory fees. The rules UTC will consider amending in this rule making are WAC 480-90-252, 480-100-252, 480-110-505, 480-120-382, and 480-120-385. UTC has assigned this matter to Docket U-220271.

Statutes Authorizing the Agency to Adopt Rules on this Subject:
RCW 81.04.160, 80.01.040, and 80.24.010.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The legislature adopted amendments to RCW 80.24.010, increasing the maximum regulatory fees UTC may assess to utility companies. This rule making will conform UTC's rules to the formula adopted by RCW 80.24.010.

Process for Developing New Rule: UTC uses a collaborative rule-making process that includes stakeholder workshops, formal comments, and draft rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Amanda Maxwell, UTC, P.O. Box 47250, Olympia, WA 98504-7250, phone 360-664-1234, TTY 711 or 1-800-833-6384, email records@utc.wa.gov, website www.utc.wa.gov/e-filing.

July 1, 2022
Amanda Maxwell
Executive Director and Secretary

WSR 22-14-098
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed July 5, 2022, 8:30 a.m.]

Subject of Possible Rule Making: Chapter 296-304 WAC, Safety standards for ship repairing, shipbuilding and shipbreaking.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The division of occupational safety and health (DOSH) is conducting rule making to better align chapter 296-304 WAC, Safety standards for ship repairing, shipbuilding and shipbreaking, with the United States Occupational Safety and Health Administration (OSHA) personal protective equipment requirements for eye and face protection for shipyard employment found at 29 C.F.R. 1915, Subpart I.

This rule making may incorporate additional changes; as well as housekeeping and formatting changes.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: OSHA, 29 C.F.R. 1915, Subpart I. OSHA updated personal protective equipment requirements for eye and face protection for shipyard employment found at 29 C.F.R. 1915, Subpart I. This requires department of labor and industries (L&I) update chapter 296-304 WAC, Safety standards for ship repairing, shipbuilding and shipbreaking, to be at-least-as-effective-as OSHA requirements, as required per chapter 49.17 RCW, The Washington Industrial Safety and Health Act.

Process for Developing New Rule: Parties interested in the formulation of these rules may contact the individual listed below. The public may also participate by commenting after amendments are proposed by providing written comments or giving oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Cathy Coates, Administrative Regulations Analyst, L&I, DOSH, P.O. Box 44620, Olympia, WA 98504-4620, phone 360-902-5432, fax 360-902-5619, email Cathy.Coates@lni.wa.gov, website <https://www.lni.wa.gov/rulemaking-activity/>.

July 5, 2022
Joel Sacks
Director

WSR 22-14-099
PREPROPOSAL STATEMENT OF INQUIRY
WASHINGTON STATE PATROL
[Filed July 5, 2022, 11:01 a.m.]

Subject of Possible Rule Making: WAC 448-16-060 Determining agreement of duplicate breath samples.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.61.506.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To correct an administrative oversight in WAC 448-16-060(2) regarding the method for determining agreement between duplicate breath samples obtained during an evidential breath test.

WAC 448-16-060, in its current form, provides a method of determining agreement between duplicate breath samples by **rounding** the mean of the four results to the fourth decimal place. However, the evidential instrument, known as the Draeger Alcotest 9510, **truncates** to the fourth decimal place. This rule change is necessary to align the WAC language and the method employed by the Draeger Alcotest 9510.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of licensing.

Process for Developing New Rule: Agency review. Washington state patrol (WSP) welcomes the public to take part in developing the rules. Anyone interested should contact the staff members identified below. At a later date, WSP will file a Proposed rule making (CR-102) with the office of the code reviser with a notice of proposed rule making. A copy of the proposal will be sent to anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kimberly Mathis, Agency Rules Coordinator, 106 11th Avenue S.W., Olympia, WA, phone 360-596-4017, email wsprules@wsp.wa.gov, website wsp.wa.gov/rules-development.

July 5, 2022
John R. Batiste
Chief

WSR 22-14-100

PREPROPOSAL STATEMENT OF INQUIRY

HEALTH CARE AUTHORITY

[Filed July 5, 2022, 3:24 p.m.]

Subject of Possible Rule Making: WAC 182-504-0015 Washington apple health—Certification periods for categorically needy programs, 182-507-0130 Refugee medical assistance; other related rules as appropriate.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.05.021, 41.05.160.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The agency is amending WAC 182-504-0015 and 182-507-0130 to expand the eligibility period for refugee medical assistance from eight months to 12 months for persons whose date of eligibility is on or after October 1, 2021. The agency has determined that this rule amendment is necessary to align with the eligibility period set by the director of the federal Office of Refugee Resettlement. During this review, health care authority may identify additional related changes that are required to improve clarity or update policy.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: United States Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement.

Process for Developing New Rule: The agency welcomes the public to take part in developing this rule. If interested, contact the person identified below to receive an early rule draft to review. After the early review, the agency will send a notice of proposed rule making (CR-102) to everyone receiving this notice and anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Brian Jensen, Rulemaking Questions, P.O. Box 42716, Olympia, WA 98504-2716, phone 360-725-0815, fax 360-586-9727, telecommunication[s] relay service (TRS) 711, email brian.jensen@hca.wa.gov, website www.hca.wa.gov/about-hca/rulemaking; or Dody McAlpine, Program Questions, P.O. Box 42722, Olympia, WA 98504-2722, phone 360-725-9964, fax 360-586-9727, TRS 711, email dody.mcalpine@hca.wa.gov, website www.hca.wa.gov/about-hca/rulemaking.

July 5, 2022
Wendy Barcus
Rules Coordinator

WSR 22-14-105
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH
[Filed July 6, 2022, 9:49 a.m.]

Subject of Possible Rule Making: Chapter 246-835 WAC (new), Birth Doula. The department of health (department) is considering establishing a new chapter to implement ESHB 1881 (chapter 217, Laws of 2022). This bill creates a new certified profession, birth doula, under Title 18 RCW. The law requires the department to create rules for the profession, which are needed to establish processes for applicants to meet competency-based requirements for voluntary certification. Additionally, rule making is needed to specify various fees such as initial licensure, renewal, late renewal, duplicate license, and verification.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.130.040; and ESHB 1881 (chapter 217, Laws of 2022).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: ESHB 1881 creates a new credential for voluntary certification of birth doulas. Rules are needed for the new profession to specify processes for applicants to meet competency-based requirements for voluntary certification. Further, rule making is needed to set fees for the profession to ensure the department is in line with RCW 43.70.250 and fees set are enough to cover the costs of licensing the profession.

ESHB 1881 does not prohibit a person from practicing as a birth doula without a certification; however, only those certified by the department under adopted rules will be able to identify themselves as a "state-certified birth doula."

Process for Developing New Rule: Collaborative rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kathy Weed, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4883, fax 360-236-2910, TTY 711, email kathy.weed@doh.wa.gov, website www.doh.wa.gov, <https://public.govdelivery.com/accounts/WADOH/subscriber/new>.

Additional comments: The department will use existing GovDelivery lists to inform stakeholders of opportunities to provide input on proposed rule language. Interested parties can join the GovDelivery list to get information on participating in the process by subscribing at <https://public.govdelivery.com/accounts/WADOH/subscriber/new>.

July 2, 2022
Kristin Peterson, JD
Deputy Secretary
Policy and Planning
for Umair A. Shah, MD, MPH
Secretary